

EXAMINER'S AMENDMENT

Oath/Declaration

1. Receipt is acknowledged of papers filed under 35 U.S.C. 119 (a)-(d) based on applications filed in Italy on 12/3/2003 and 11/23/2004. Applicant has not complied with the requirements of 37 CFR 1.63(c), since the oath, declaration or application data sheet does not acknowledge the filing of any foreign application. A new oath, declaration or application data sheet is required in the body of which the present application should be identified by application number and filing date.
2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Grant Pollack on 08/27/2009.

The application has been amended as follows:

In **claim 1, line 7**: after "at the surgical site," please delete -- "and that" -- and insert -- a loop is provided --

In **claim 1, line 7**: after "plunger," please insert -- and at the proximal end of the plunger, --

In **claim 1, line 8**: before "handle" please insert -- first --

In **claim 1, line 8**: after "is provided" please delete -- "for gripping the ball and recovering" -- and insert -- for actuating the plunger so as to grip the ball and recover --

In **claim 4, line 2**: after "the plunger includes a stem" please delete -- "and the handle has a loop at a distal end of the stem" -- and insert -- with the loop at a distal end thereof --

Art Unit: 3734

In **claim 6, line 2**: after "of the stem, a" please insert -- second --

In **claim 6, line 2**: after "handle" please delete -- "is provided" -- and insert -- is associated with the tubular body --

In **claim 6, line 4**: before "handle" please insert -- second --

In **claim 7, line 2**: before "handle" please insert -- second --

In **claim 8, line 1**: after "wherein" please insert -- the second handle includes --

In **claim 8, line 2**: after "pair of handle rings" please delete -- "are provided" --

In **claim 8, line 4**: after "proximal end of the stem," please insert -- the first handle includes --

In **claim 8, line 4**: after "handle ring" please delete -- "is provided" --

3. The following is an examiner's statement of reasons for allowance: Applicant's argument, particularly paragraph 3 of page 25 filed with the after final amendment on 03/27/2009, that one skilled in the art would not be motivated to combine the plug of Yoon with the retrieval basket device of Reynolds et al. because there is no need for a device that recovers the plug was found persuasive.

None of the prior art disclose an absorbing plug connected to a radio-opaque locator ball in combination with tubular body and a plunger having a loop at the distal end and a handle, at the proximal end, for actuating the plunger so as to grip the ball and recover the plug after use by retracting the plunger inside the tubular body.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Applicant is now required to submit a substitute declaration or oath to correct the deficiencies set forth above in this communication. The substitute oath or declaration

Art Unit: 3734

must be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability" (PTO-37). Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136. Failure to timely file the substitute declaration (or oath) will result in **ABANDONMENT** of the application. The transmittal letter accompanying the declaration (or oath) should indicate the date of the "Notice of Allowance" (PTOL-85) and the application number in the upper right hand corner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENNIFER L. HORNBERGER whose telephone number is (571)270-3642. The examiner can normally be reached on Monday through Friday from 8am-5pm, Eastern time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571)272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jlh
08/27/2009

Application/Control Number: 10/581,660

Page 5

Art Unit: 3734

/Anhtuan T. Nguyen/

Supervisory Patent Examiner, Art Unit 3731

8/29/09